



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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MEMORANDUM

SENSITIVE

TO: The Commission

FROM: Lawrence M. Noble *LMN (42)*
General Counsel

SUBJECT: Request by Counsel for Certifications - MUR 2314

On May 20, 1992, counsel for the National Republican Senatorial Committee wrote to this Office in response to notification of the Commission's findings of probable cause to believe and proposed conciliation agreement in MUR 2314. (Attachment 1). In his letter counsel requested, without explanation, copies of the certifications of all Commission votes in this matter. A legitimate purpose for this request would be to verify that the Commission did take the action represented by the staff.

Attached for the Commission's information are the certifications at issue. (Attachment 2). It is the recommendation of this Office that the Commission approve the release of these certifications to counsel, but with the deletion of all vote counts and names of Commissioners.

It has been the Commission's practice not to make public the certifications of its determinations until the matters involved have been closed. This practice has arisen out of the need to maintain openness and flexibility until all facts are in and all issues, both factual and legal, have been thoroughly considered. The only exception to this practice is the lack of any practical purpose for keeping the certifications of determinations confidential, as when a respondent already knows that the Commission has found reason to believe or probable cause to believe that a violation has occurred. This exception applies, however, only to the fact of a finding of reason to believe or probable cause to believe, not to the numerical breakdown of the vote or to the identities of those voting in particular ways. The Commission should continue its practice that these latter details become subject to public discussion only after the matter at issue is no longer before the Commission.

RECOMMENDATION

Approve the release to counsel for the National Republican Senatorial Committee of all certifications in MUR 2314 with the deletion of all vote counts and names of Commissioners.

99-04-395-1170